



DEPARTMENT OF TRANSPORTATION

[4910-RY]

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed U.S. Highway 85 Project in North Dakota

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

SUMMARY: This notice announces actions taken by FHWA that are final. The actions relate to a proposed highway project, US Highway 85 from the Interstate 94 (I-94) interchange to the Watford City Bypass (McKenzie County Road 30), in the counties of Stark, Billings and McKenzie, State of North Dakota. Those actions grant approvals for the project.

DATES: By this notice, FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before [INSERT DATE 150 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Kevin Brodie, Transportation Engineer, FHWA, 4503 Coleman Street, Suite 205, Bismarck, ND 58503, Email: kevin.brodie@dot.gov; Matt Linneman, Project Manager, NDDOT, 300 Airport Road, Bismarck, ND 58504-6005, Email: mlinneman@nd.gov. Office hours are from 8:00 a.m. to 5:00 p.m. C.T., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken final agency action(s) subject to 23 U.S.C. 139(l)(1) by issuing approvals for the following highway project in the State of North Dakota: Expansion of approximately 62 miles of US Highway 85 from the I-94 interchange to the Watford City Bypass (McKenzie County Road 30). The purpose of the project is to address the current and future needs of the project corridor. These needs include: an improved highway system capable of addressing the social and economic needs of the region; a bridge across the Little Missouri River capable of accommodating taller loads by either reducing or eliminating height restrictions; establishment of a connective link to the overall four-lane highway infrastructure in North Dakota; improved safety and capacity along the project corridor; satisfying the goals and policies of existing highway designations; addressing existing slope instability and landslide issues; and offsetting potential impacts on wildlife. The actions by the agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS)/Nationwide Section 4(f) Programmatic Evaluation for the project, approved on March 5, 2019, in the FHWA Record of Decision (ROD) issued on March 5, 2019, and in other documents in the project records. The FEIS/Nationwide Section 4(f) Programmatic Evaluation, ROD, and other project records are available by contacting the FHWA or: the NDDOT at the addresses provided above. The FEIS/Nationwide Section 4(f) Programmatic Evaluation and ROD can be viewed and downloaded from the project Web site at: <https://www.dot.nd.gov/projects/williston/US85I94/>, or obtained from any contact listed above.

This notice applies to all Federal agency decisions that are final as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].
2. Air: Clean Air Act [42 U.S.C. 7401-7671q].
3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303; 23 U.S.C. 138]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].
4. Wildlife: Endangered Species Act [16 U.S.C. 1531-1544 and Section 1536]; Marine Mammal Protection Act [16 U.S.C. 1361-1423h]; Fish and Wildlife Coordination Act [16 U.S.C. 661-667d]; Migratory Bird Treaty Act [16 U.S.C. 703-712].
5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470f]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470aa-470mm]; Archeological and Historic Preservation Act [16 U.S.C. 469-469c]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001-3013].
6. Social and Economic: American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201-4209].
7. Wetlands and Water Resources: Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251-1387]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601-4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300f-300j-26]; Rivers and Harbors Act

of 1899 [33 U.S.C. 401-406]; Wild and Scenic Rivers Act [16 U.S.C. 1271-1287];
Emergency Wetlands Resources Act, [16 U.S.C. 3901, 3921]; Wetlands Mitigation [23
U.S.C. 119(g) and 133(b)(14)]; Flood Disaster Protection Act, 42 U.S.C. 4012a, 4106].

8. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain
Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority
Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of
Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O.
13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514
Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning
and Construction. The regulations implementing Executive Order 12372 regarding
intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139 (l)(1)

Issued on: April 3, 2019.

Sandy Zimmer,
Acting Division Administrator,
Bismarck, North Dakota.

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